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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,256	01/10/2006	Jens Grabowski	D4700-00398	3215
8933	7590	08/06/2007	EXAMINER	
DUANE MORRIS, LLP			PAIK, SANG YEOP	
IP DEPARTMENT			ART UNIT	PAPER NUMBER
30 SOUTH 17TH STREET			3742	
PHILADELPHIA, PA 19103-4196				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/538,256	GRABOWSKI ET AL.
	Examiner Sang Y. Paik	Art Unit 3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11, 14-21 and 24 is/are rejected.
- 7) Claim(s) 12, 13, 22 and 23 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>1/10/06</u>	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, there is no proper antecedent basis for "the aperture"

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hidehiko (JP 04221564).

Hidehiko shows the device claimed including a steam generator, a main steam line (9), a vessel within which a receptacle (14) for a scent carrier such herb is arranged wherein a steam pipe line (15), branched off the main steam line, is provided into the vessel, and the steam saturated with scent is exhausted from and out port (13).

5. Claims 1, 2, 4, 6, 7, 9, 10, 14, 16, 18, 19, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Anmelder (DE 3505707).

Anmelder shows the device claimed including a steam generator (2), a main steam line (13), a steam pipe line (14) conducted to a vessel which contains a receptacle for a scent material/carrier (20), a steam exhaust line for the scented steam, the steam supply line in indirect contact with the receptacle, a removable lid/cap (24) having a recess provided to the vessel having an alternative steam supply line arrangement with the height of an aperture of the inlet steam pipe line is higher or exceeds the height of the aperture of the outlet steam exhaust line (see Figure 7):

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidehiko (JP 04221564) or Anmelder (DE 3505707) in view of Masamitsu (JP 05095985) or Granger (US 1,292,759).

Hidehiko or Anmelder shows the device claimed except the receptacle made of sieve or mesh.

Masamitsu or Granger shows a scent carrier or material contained in a receptacle having holes therein to allow heated steam to pass there-through. In view of Masamitsu or Granger, it would have been obvious to one of ordinary skill in the art to adapt Hidehiko or Anmelder with the receptacle made of sieve or mesh to allow heated steam pass there-through the better disseminate the fragrant vapors.

8. Claims 8, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidehiko (JP 04221564) or Anmelder (DE 3505707) in view of Steil (US 3,658,059) or Lee et al (US 3,243,576).

Hidehiko or Anmelder shows the device claimed except an insert having a base that rotate with an aperture of the steam supply line.

Steil and Lee shows that it is well known in the art that an amount of steam can be controlled with a base insert or plate that can be rotated with respect to the steam outlet aperture.

In view of Steil or Lee, it would have been obvious to one of ordinary skill in the art to adapt Hidehiko or Anmelder with an insert base that can be rotated with respect to opening of the steam supply line in order to control the amount and the rate of steam into the vessel and thus to control the fragrant intensity.

9. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hidehiko (JP 04221564) or Anmelder (DE 3505707) in view of Brown et al (US 4,098,853).

Hidehiko or Anmelder shows the device claimed except for the lid having a broad rim that overhangs the vessel.

Brown shows a lid (114) with a broad rim which overhangs the cross section of the vessel opening. In view of Brown, it would have been obvious to one of ordinary skill in the art to adapt Hidehiko or Anmelder with the lid that overhangs over the cross section of the vessel as an alternative arrangement to close off the opening of the vessel.

With respect to claim 15, it would have been obvious to one of ordinary skill in the art to adapt the lid with a prong or a handle as a convenient means to further assist turning or rotating of the lid.

***Allowable Subject Matter***

10. Claims 12, 13, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y. Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (6:30-3:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sang Y Paik  
Primary Examiner  
Art Unit 3742

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syp